



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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[REDACTED] MI [REDACTED]

Date Mailed: September 30, 2019
MOAHR Docket No.: 19-009300
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 23, 2019, from [REDACTED] Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Natalie McLaurin, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medicaid eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of June 2019, Petitioner was an ongoing recipient of Medicaid.
2. As of June 2019, Petitioner was between the ages of 21-64, unmarried, not pregnant, and without minor children.
3. As of June 2019, Petitioner received gross Retirement, Survivors and Disability Insurance (RSDI) of \$1,498/month due to being disabled.
4. On June 28, 2019, MDHHS terminated Petitioner's Medicaid eligibility beginning August 2019. Petitioner was denied Medicaid under the Healthy Michigan Plan (HMP) category due to excess income. Petitioner was denied Medicaid under AD-Care and Group 2 Spenddown (G2S) for not being disabled.

5. On July 19, 2019, Petitioner requested a hearing to dispute the termination of Medicaid. Petitioner also requested a hearing to dispute Food Assistance Program (FAP) eligibility. Exhibit A, pp. 2-3.
6. On September 23, 2019, during an administrative hearing, Petitioner verbally withdrew his dispute concerning FAP eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits. During the hearing, Petitioner testified that he accepted the termination of FAP benefits and did not wish to proceed with a hearing disputing FAP eligibility. Based on Petitioner's withdrawal, Petitioner's hearing request will be dismissed concerning FAP benefits.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a termination of Medicaid benefits. MDHHS presented only the first page of a Health Care Coverage Determination Notice (HCCDN) dated June 28, 2019, which informed Petitioner of a termination of Medicaid beginning August 2019. Exhibit A, p. 6.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program includes several sub-programs or categories. *Id.* To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. *Id.*

MA categories are also split into categories of Group 1 and Group 2. *Id.*, p. 1. For Group 1, a group's net income must be at or below a certain income level for eligibility. *Id.*

As of the hearing date, Petitioner was between the ages of 21-64, unmarried, not pregnant, and without minor children. Petitioner's circumstances render him potentially eligible for Group1 categories of Medicaid under HMP and AD-Care.¹

An HCCDN denying Medicaid typically lists common Medicaid categories over two pages and provides an explanation for why a client is not eligible. Because MDHHS only presented one page of Petitioner's HCCDN, MDHHS had to provide testimony as to why Petitioner was denied Medicaid under HMP and AD-Care. MDHHS alleged that Petitioner was denied HMP due to excess income.

HMP is a health care program administered by the Michigan Department of Community Health, Medical Services Administration. The program is authorized under the Affordable Care Act of 2010 as codified under 1902(a)(10)(A)(i)(VIII) of the Social Security Act and in compliance with the Michigan Public Act 107 of 2013. HMP policies are found in the Medicaid Provider Manual and Modified Adjusted Gross Income Related Eligibility Manual (MAGIM).

HMP is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. Modified adjusted gross income (MAGI) is a methodology for how income is counted and how household composition and family size are determined. MAGIM (May 28, 2014), p. 14. It is based on federal tax rules for determining adjusted gross income. *Id.* It eliminates asset tests and special deductions or disregards. *Id.* Every individual is evaluated for eligibility based on MAGI rules. *Id.*

For individuals who have been determined financially-eligible for MA using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year. 42 CFR 435.603 (h)(2). In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for

¹ Typically, disabled persons are not eligible for HMP because HMP is not offered to persons who receive Medicare. Petitioner testified, without rebuttal, that he has been receiving RSDI benefits for approximately one year and is not yet eligible to receive Medicare.

employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. 42 CFR 435.603 (h)(3).

It was not disputed that Petitioner's monthly gross RSDI was \$1,498 as of August 2019. Multiplying Petitioner's monthly gross income by 12 results in an annual income of \$17,976. This is Petitioner's countable annual income for purposes of HMP eligibility.

HMP income limits are based on 133% of the federal poverty level. RFT 246 (April 2014), p. 1. The 2019 federal poverty level is \$12,490 for a one-person group in Michigan.² For Petitioner to be eligible for HMP, countable income would have to fall at or below \$16,611.70 (\$1,384.30/month). Petitioner's income exceeds the HMP income limit. Thus, Petitioner is ineligible for Medicaid under HMP.

Per MDHHS' testimony, the written notice of Medicaid termination stated that Petitioner was not eligible for a disability-related Medicaid category because Petitioner was not disabled. MDHHS testimony acknowledged that Petitioner was disabled. As a disabled individual, Petitioner is potentially eligible to receive Medicaid under AD-Care.

AD-Care is an SSI-related Group 1 MA category. BEM 163 (July 2017), p. 1. AD-Care is available to persons who are aged or disabled (AD). *Id.* Net income cannot exceed 100% of the poverty level. *Id.*

As a disabled individual, it can be deduced that MDHHS improperly evaluated Petitioner's AD-Care eligibility by determining that Petitioner was not disabled. Thus, MDHHS will be ordered to redetermine Petitioner's Medicaid eligibility based on Petitioner being a disabled individual.

It should be noted that Petitioner is unlikely to be income-eligible for Medicaid under AD-Care.³ Nevertheless, Petitioner is potentially eligible to receive Medicaid subject to a deductible under G2S. BEM 166. It is also possible that Petitioner has excess assets for AD-Care and/or G2S which has an asset limit of \$2,000 (see BEM 400 (April 2019) p. 8) but these are determinations left to MDHHS. Thus, an order that MDHHS reevaluate Petitioner's Medicaid eligibility is appropriate and Petitioner can later request a hearing if dissatisfied with MDHHS reevaluation.

² <https://aspe.hhs.gov/2019-poverty-guidelines>

³ If Petitioner is not eligible for HMP (which is based on 133% of the FPL), Petitioner would likely not be eligible for Medicaid under AD-Care (which is based on a smaller income limit).

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew his dispute concerning FAP eligibility. Concerning FAP eligibility, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's Medicaid eligibility. It is ordered that MDHHS begin the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's Medicaid eligibility, beginning August 2019, subject to the finding that Petitioner is a disabled individual; and
- (2) Issue any Medicaid benefits to Petitioner which were improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/jaf


Christian Gardocki
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

(via electronic mail)

Kathleen Verdoni
MDHHS-Saginaw-Hearings
BSC2
D Smith
EQAD

Petitioner

(via first class mail)

[REDACTED]
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[REDACTED] MI [REDACTED]